

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 640 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----

MR SINDHAV

Versus

STATE OF GUJARAT

-----

Appearance:

MR PH PATHAK for Petitioners

GOVERNMENT PLEADER for Respondent No. 1, 3

MR A S Dave,AGP for Respondent No. 2

-----

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 24/11/98

ORAL JUDGEMENT

RULE.

The say of the petitioner is that various posts in the clerical cadre were to be filled by the respondent No.3-Collector, Surendranagar and hence names were called from the Employment Exchange. About 500 candidates were interviewed. Out of 36 candidates, the petitioner was selected but was given employment for 29 days. He

continued in service till 1996 when it came to be terminated abruptly. An industrial dispute was raised. The Conciliation Officer has rejected the complaint of the petitioner saying that the office of the respondent No.3-Collector, Surendranagar is not an 'industry' and the employment was for temporary period.

2. It is contended by the learned Advocate for the petitioner that whether the department is an 'industry' or not is a question of evidence, The Apex Court in the case of Bangalore Water Supply and Sewerage Board v. Rajappa, reported in 1978 SCC 253 held that the employees of Tax department of the State Government are also entitled to the benefits of provisions of the I.D.Act. It is now well settled by various decisions that the Government while considering the question whether the reference should be made or not cannot delve into merit of the dispute and determine lis itself. Reference may be made in the case of Telco Convoy Mazdoor Sangh v. State of Bihar, reported in AIR 1989 SC 1565.

3. Consequently, this Special Civil Application is allowed and the order of the respondent No.2-Assstt.Commissioner of Laboaur and Conciliation Officer, Surendranagar dated 20.11.1997 is quashed and set aside. Respondent is directed to consider and conclude the proceedings within a period of four weeks from the date of receipt of the writ. In case failure report is submitted, the State Government will take appropriate decision within four weeks thereafter.

Rule made absolute to the aforesaid extent. D.S. permitted.

...